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Public Employees for Environmental Responsibility

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JUN 21 2001

FCC MAIL ROOM

*Office of the General Counsel
Dan Meyer*



June 14, 2001

Ms. Karen Wade, Director, Intermountain Region
United States Department of Interior, NPS
12795 W. Alameda Parkway
Box 252287
Denver, Colorado 80225-0287

BY FIRST CLASS MAIL

Re: *FCC Dkt. No. RM-9913 and Communications Towers along the John D. Rockefeller Memorial Parkway, State of Wyoming*

Dear Regional Director Wade:

Public Employees for Environmental Responsibility ("PEER") urges you to withdraw the decision to approve a communication tower in a roadless area of the John D. Rockefeller Memorial Parkway in Wyoming. On June 11, 2001 the Acting Superintendent of Grand Teton National Park announced that your office made the decision to approve the siting.

PEER believes that you did not have access to the relevant facts prior to this decision. Nor did the environmental assessment ("EA") contain these facts or subject the proposal to applicable National Park Service (NPS) policies. As such, the EA is fatally flawed and subject to judicial review under the National Environmental Policy Act of 1969 ("NEPA"). It examined the impact of the tower on nearby Forest Service wilderness but failed to discuss the impact of the tower on the wilderness suitability of the NPS-administered lands that lie west of the roadway.

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The missing facts and policies are that:

- (1) the land on which the communications tower would be located is a roadless tract of National Park Service-administered Federal lands;
- (2) the *General Management Plan* for the Parkway, adopted in 1980, committed the NPS to study the roadless areas in the Parkway for wilderness suitability;
- (3) the NPS has never conducted the study as required;
- (4) NPS *Management Policies* require that the NPS study ALL lands administered by the NPS, including new units since 1964, "for their suitability for inclusion within the national wilderness preservation system." Chapter 62.1;
- (5) the NPS has not conducted the study of the lands in the Parkway;
- (6) NPS *Management Policies* require that the NPS manage areas suitable for wilderness so as to "preserve their physical wilderness resources" and ensure "that the wilderness character is . . . preserved." Chapter 6.3;
- (7) approval of a communications tower siting will irrevocably diminish the wilderness suitability of this roadless tract in the Parkway contrary to NPS *Management Policies*.

In light of these facts and policies not raised by the EA, the finding of no significant impact ("FONSI"), signed on your behalf by Mr. Rick Frost, must be set aside. Failure to do so will signal the Council on Environmental Quality ("CEQ") that you have intentionally abandoned the NPS procedures implementing the NEPA. Please instruct your staff to begin the wilderness suitability assessment for the lands in the Parkway as the NPS promised in 1980. Only after that process is complete should the NPS consider granting approval to the communications tower. To do otherwise is a clear violation of NPS *Management Policies* that raise serious issues under the Administrative Procedures Act of 1949. Additionally, the Act of August 25, 1916, imposes upon the Service the responsibility to conserve the scenery of the national park system in an unimpaired state.

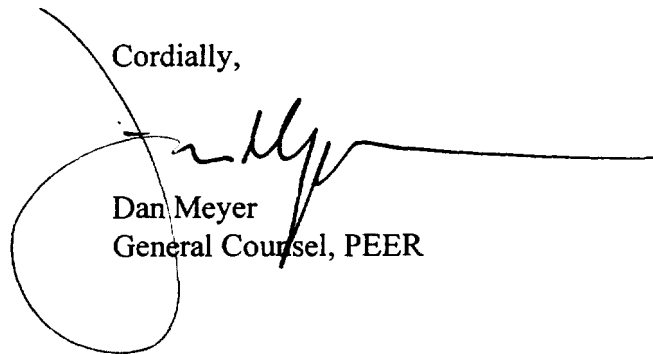
It is important that each Federal agency understand its obligations for environmental review, and that such agencies conduct those reviews accordingly to the law and not some tradition of old boy networking between a captured agency and the industry it serves. The Federal Communications Commission ("FCC") is just now coming to terms with its own failure in this area, and the environmentally degrading practices it has promoted. The FCC may well end up defending itself

John D. Rockefeller Memorial Parkway, Wyoming
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in the Federal District Court on these matters; the Department of the Interior has the foresight and ability to avoid being a co-Defendant in such a suit.

PEER believes that your office takes these responsibilities seriously and hopes that you will act accordingly to suspend this decision until the necessary wilderness review is completed. You may also wish to consult with the Wireless Telecommunications Bureau ("WTB") at the FCC on their responsibility to assist you with this review. PEER has petitioned the FCC to conduct rulemaking on this subject, and your comments in that proceeding would be welcomed when it commences.

Cordially,

A handwritten signature in black ink, appearing to read 'Dan Meyer', is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right. A large, loopy circular mark is drawn to the left of the signature, partially overlapping the typed name.

Dan Meyer
General Counsel, PEER

CC: Attached service list

Federal jurisdictions

The Honorable Gale Norton, Secretary
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Ms. Dinah Bear, Acting Chair
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Ms. Magalie Roman Salas, Secretary
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